IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
REVIEW PETITION NO.05 OF 2006
IN
CIVIL APPLICATION NO.894 OF 2004
IN
A.O. STAMP NO.15325 OF 2005

Municipal Corporation of
Greater Mumbai & anr. Petitioners
Vs.
Mr.Badelal Gupta & anr. Respondents

Mr.R.A.Malndkar for petitioners.
Mr.M.C.Shah with Mr.J.V.Singh for respondents.

CORAM: B.H.MARLAPALLE,J.
April 28, 2006.

P.C.

. While rejecting Civil Application No.894 of 2005 it was obsserved, based on the photographs placed before me, that the distance between the tree and the construction that was put up by respondent no.2 was more than 10 ft. and subsequently when Review Petition under Stamp No.27734 of 2005 was dismissed it was noted that it was permissible for the Corporation to remeasure the distance between the construction and the tree and approach this Court for correction. Hence the Municipal Corporation has moved this application supported by the affidavit of Mr.Satyanarayan Hegde, Deputy Superintendent of Gardens. It is stated that the distance btween the tree and the construction on actual measurements is

found to be 1’ 3". The respondent no.1 has filed an affidavit but has not denied the contentions of the affiant regarding the distance between the tree and the construction.

. Hence this application is partly allowed and it is directed that the observation "the distance between the trunk of the tree and the construction that has been put up recently by respondent no.2 is more than 10 ft." be deleted from the order dated 17/10/2005 passed in Civil Application No.894 of 2005.

(B.H.MARLAPALLE,J.)